

REMARKS

This is in response to the Office Action dated May 5, 2004. Claims 1, 9, 13 and 17 have been amended to overcome the objections and rejection under 35 U.S.C. 112. It is respectfully submitted that, as amended, all the pending claims are allowable.

Claim Objections & Rejection Under 35 U.S.C. 112

In Claim 1, "the top wall panels" in line 5 has been replaced with "the top wall panel", and "the fourth side wall panels" in line 13 has been amended as "the third side wall panels".

In Claim 9, line 2, "bottom racks" and "includes" have been replaced with "bottom rack" and "include", respectively.

In Claim 13, the misspelled term "sildable" has been corrected as "slidable".

In Claim 17, "bottom wall panels" has been replaced with "bottom wall panel".

With regard to Claim 16, Claim 6 includes the additional limitation "to prevent the second and third side wall panels from being folded outwardly" compared to Claim 16. Therefore, Claim 16 is not merely duplicative of Claim 6.

Claim Rejections Under 35 U.S.C. 102(b)

Claims 1, 2, 4-6, 8-14, 16 were rejected under 35 U.S.C. 102(b) as being anticipated by US 6192834 (herein 834).

For Claim 1, The Examiner contended that "834 discloses an animal enclosure 20 comprising a top wall panel 30; a bottom rack 50; two opposite 1st sidewall panels 110, 160, each having a top edge hinged to the top wall panel and a bottom edge hinged with the bottom rack at a 1st elevation; a 2nd sidewall panel 70 disposed between and adjacent to the 1st sidewall panels, the 2nd sidewall panel having a bottom edge hinged to the bottom rack at a 2nd elevation; and a 3rd sidewall panel 100 opposite to the 2nd sidewall panel and adjacent to the 1st sidewall panels, the 3rd sidewall panel having a bottom edge hinged to the bottom rack at a 3rd elevation; wherein 1st, 2nd and 3rd sidewall panels can be folded stacked with each other on the bottom rack (as shown in fig. 6); and at least a removable door 120 formed thereon."

The rejection is respectfully traversed because as disclosed in 834,

1. **The top edge of the 1st sidewall panel 110 is not hinged with the top wall panel 30, and bottom edge of the 1st sidewall panel 160 is not hinged to the bottom rack 50.**

As shown in figs. 3, the top edge of the 1st sidewall panel 110 is not hinged with the top wall panel 30. As shown in fig. 4, the bottom edge of the 1st sidewall panel 160 is not hinged with the bottom rack 50 either. On the contrary, in col. 3, lines 25-27, 834 specifically teaches “Forward end wall 110 rotatably engages bottom platform 50, while rear end wall 160 rotatably engages top platform 30, and in Fig. 5, the top edge of the forward end wall 110 is actually disengaged with the top wall panel 30”, while the bottom edge of the rear end wall 160 is disengaged with the bottom rack 50.

2. **The bottom edges of the 1st sidewall panel 110 and 160 are not hinged at the same 1st elevation.**

As the sidewall panel 160 is not even hinged to the bottom rack 50, the bottom edge of the sidewall panel 160 is not hinged at the 1st elevation. As a matter of fact, as shown in Fig. 7, the 1st sidewall panel 160 is actually folded over the panels 70 and 110.

3. **The 2nd sidewall panel 70 and 3rd sidewall panel are not hinged to the bottom rack 50 at different 2nd and 3rd elevations.**

The sidewall panels 70 appear to be hinged to the bottom rack 50 at the same elevation (fig. 7).

4. **The door 120 is not removable.**

834 discloses a door 120 formed on the panel 110, however, the door 120 is able to rotate about the hinge wire 140, but is not removable.

Should the sidewall panels 70 be referred as the 1st sidewall panel as claimed in Claim 1, the bottom edges of these two sidewall panels 70 appear to be hinged to the bottom rack 50 at the same elevation (1st elevation). The front and rear sidewall panels 110 and 160 as the second and third sidewall panels then have bottom edges at different elevations (2nd and 3rd elevation). However, to facilitate the rotation about the bottom rack 50 and the top wall panel 30 respectively, the bottom edge of the third sidewall panel 160 cannot be hinged with the bottom rack 50. Therefore, the reference 834 actually teaches away “the third side wall panel having a bottom edge hinged to the bottom rack” as claimed in Claim 1.

In addition, the **removable** door as claimed in Claim 1 allows the user to use the enclosure as a training space for animal in addition to its primary application as a cage. As such application is not considered or suggested in the 834 reference, the 834 reference only teaches the door to be openable, but fails to teach the door being removable.

The 834 does not only fail to teach every element as claimed in Claim 1, but also teaches away “the bottom edge of the third (or second) sidewall panel being hinged to the bottom rack” as claimed. Therefore, the rejection is respectfully traversed.

For Claim 2, the Examiner contended “834 discloses the 1st elevation is higher than the 2nd elevation, and the 2nd elevation is higher than the third elevation”. The Examiner construes the front and rear side panels 110 and 160 as the first sidewall panels and hinged to the bottom rack 50 at the 1st elevation. This is contradictory to the teaching as shown in Fig. 7, in which the bottom edges of the panels 110 and 160 are at different elevations. Again, should the Examiner construe the panels 70 as the 1st sidewall panel as claimed, the 2nd panel 110 and the 3rd panel 160 each have a bottom edge at 2nd and 3rd elevations, respectively. However, fig. 7 teaches that one of the 2nd and 3rd elevations is higher than the 1st elevation, and the other is lower. This still teaches away “the first elevation is higher than the second elevation, and the second elevation is higher than the third elevation.”

For Claim 4, as 834 fails to teach the bottom edges of a second and a third side wall panels being hinged to the bottom rack, 834 consequently fails to teach the hook to hinge the second and third side wall panels.

For Claim 12, the Examiner contended that 834 discloses the tray is slidable through one of the side portions (col. 4, lines 35-41). As a matter of fact, the tray is slidable through **more than one** of the side portions (col. 4, lines 35-41). Therefore, the locking tongue 174 is required at both the front and rear end walls 110 and 160. In contrast, as Claim 12 only allows the replaceable tray slidable through **one** of the side portion, only one latch is required.

For Claim 13, the Examiner contended that 834 discloses latch 66. According to the specification and drawings of 834, 66 are tray projections, not latches.

As 834 fails to teach every element as claimed in Claims 1, 2, 4-6, 8-14, 16, the rejection is respectfully traversed.

In addition, to facilitate the rotation of the front and rear panels 110 and 160 about the bottom rack 50 and the top wall panel 30, respectively, there is no suggestion or motivation to modify the rear panel 160 into a panel that has a bottom edge hinged to the bottom rack 50 because such modification changes the principle of operation of the enclosure 20 as disclosed in 834.

Rejection Under 35 U.S.C. 102(e)

Claims 1-3, 6, 7, 14-28, 20-23 were rejected under 35 U.S.C. 102(e) as being anticipated by US 6681720 (herein 720).

For Claim 1, the Examiner contended that *“720 discloses an animal enclosure 20 comprising a top wall panel 22, a bottom rack 24, two opposite 1st sidewall panels 30, 32, each having a top edge hinged with the top wall panel and a bottom edge hinged with the bottom rack at a 1st elevation; a 2nd sidewall panel 26 disposed between and adjacent to the 1st sidewall panels, the 2nd sidewall panel 26 having a bottom edge hinged to the bottom rack at a 2nd elevation; and a 3rd sidewall panel 28 having a bottom edge hinged to the bottom rack at a 3rd elevation; wherein the 1st, 2nd, and 3rd elevations are different from each other such that the top wall panel, the 1st, the 2nd and the 3rd sidewall panels can be folded stacked with each other on the bottom rack (as shown in fig. 13) and at least one of the 1st sidewall panels, the 2nd sidewall panel and 3rd sidewall panel has a removable door 54 formed thereon.”*

The rejection is respectfully traversed because:

1. **The top edges of 1st sidewall panels 30,32 that the Examiner referred to are not hinged to the top wall panel 22**

As clearly shown in figs. 1 and 8, the top edges of the sidewall panels 30 and 32 are not hinged to the top wall panel 22. On the contrary, as disclosed in col. 5, line 62 to col. 6, line 2, “Top wall 22 is connected to the front wall 30 along top edge 112 so that **wire locks** 132 engage top edge 112 when cage 20 is in the expanded position. Wire lock 132 is positioned along the edge 112 to prevent a pet from pulling from and rear walls 30 and 32 inside cage interior 34 and potentially harming the pet. Further, wire lock 132 also prevents the pet from pushing cage walls

30 and 32 outward in order to escape cage interior 34”. As a matter of fact, wire lock 132 is used to prevent the side wall panels 30 and 32 from moving about the top edges thereof. This teaches away “each of the side wall panels having a top edge **hinged to the top wall panel 22**” as claimed.

2. **The 2nd side wall panel and the 3rd side wall panel are hinged to the bottom rack at the same elevation.**

As specifically illustrated in figs. 8-12, the bottom edges of the 2nd and 3rd side wall panels 26 and 28 are hinged to the bottom rack 22 at the same elevation. Therefore, 720 fails to teach the 1st, 2nd and 3rd side wall panels are hinged to the bottom rack at 1st, 2nd and 3rd elevations which are different from each other. As a matter of fact, 720 teaches that the 2nd and 3rd elevations are the same as each other.

3. **The door 54 is not removable**

As disclosed in col. 3, lines 56-60, “Door 54 is pivotably mounted to wall 30 along second edge 58 by looped ends 64, which attach to wall 30 to form a door hinge. This configuration allows the door to be pivoted between an open and closed position.” The specification of 720 does not explicitly or implicitly teach whether the door 54 is removeable. However, as shown in figs. 1 and 2, it appears that unless a special tool is used to deform the loop ends 64, so as to eliminate the hinge function, the door 54 cannot be removeable.

Should the Examiner refer the side wall panels 26 and 28 each having a bottom edge hinged to the bottom rack 24 at a 1st elevation and a top edge hinged to the top wall panel 22 to the first side wall panels as claimed, the front wall 30 and the rear wall 32 will then be referred as the 2nd and 3rd side wall panels as claimed. In such manner, each of the 2nd and 3rd side wall panels 30 and 32 has a bottom edge hinged to the bottom rack 24. However, they are hinged to the bottom rack 24 at **the same elevation** (114, figs. 8-12). Therefore, 720 still fails to teach the 1st, 2nd and 3rd elevations which are different from each other. Also, the feature of “removable door” is not disclosed by 720 either.

As 720 fails to teach every element as claimed in Claim 1, the rejection is thus respectfully traversed. In addition, 720 shows no intention for using the wire cage as a training space in addition to its primary application, there is no desirability for the claimed invention. Therefore, there is no suggestion or motivation for modifying the door into a removable one.

For Claim 2, the Examiner contended that 720 discloses the 1st elevation is higher than the 2nd elevation, and the 2nd elevation is higher than the 3rd elevation. As a matter of fact, the 2nd and 3rd elevations are at the same level. Therefore, 720 fail to teach that the 2nd elevation is higher than the 3rd elevation.

For Claim 3, binder rings are only seen for the 2nd and 3rd side wall panels 26 and 28, not the 1st side wall panels 30 and 32 that the Examiner referred to.

For Claim 6, the 1st side wall panels 30 and 32 that the Examiner referred to do not include curved wire to prevent the 2nd and 3rd side wall panels 26 and 28 from being folded outwardly.

For Claim 15, the Examiner contended that 720 discloses **two of the 1st, 2nd and 3rd side wall panels** include the removable doors. Firstly, 720 discloses a door 54 on the side wall panel 30 and a door 144 on the top wall panel. 720 does not disclose “two of the side wall panels” include the doors. Secondly, neither of the doors 54 and 144 is removable.

For Claim 16, again, the 1st side wall panels 30 and 32 that the Examiner referred to do not include curved wire to prevent the 2nd and 3rd side wall panels 26 and 28 from being folded outwardly.

For Claim 17, the Examiner contended that *“in addition to the above, 720 further discloses the bottom rack having a bottom wall panel and 4 vertical side portions extending upwardly from the bottom wall panels; a first pair of sidewall panels are foldable towards the bottom wall panel being unlatched with the top wall panel (col. 6, lines 30-45); a 2nd pair of the sidewall panels having top edges hinged to the top wall panel and bottom edges hinged to the bottom rack are foldable and stackable relative to each other (col. 6, lines 30-65).”*

The rejection over Claim 17 is respectfully traversed because 720 does not teach a **detachable** door formed on at least one of the first and second pair of side wall panels. 720 also fails to teach a replaceable tray slidable through **one** vertical side portion of the bottom rack. Indeed, 720 discloses that a tray can be disposed on the bottom wall 50 of the bottom rack 24, however, 720 does not teach that such tray is slidable through any of the vertical side portions. On the contrary, as shown in figs. 1-12, none of the vertical side portions of the bottom rack 22 disclosed by 720 allows a tray to slide through.

For Claim 20, as the tray as disclosed by 720 cannot slide through any of the vertical side portions of the bottom rack 24, 720 also fails to teach the latch included in the vertical side portion to secure the tray in the enclosure.

For Claim 22, 720 discloses a door 54 on one of the side wall panels, and a door 144 on the top wall panel 22. But 720 does not teach two doors formed on two of the side wall panels.

For Claim 23, as 720 fails to disclose two doors formed on two of the side wall panels, 720 further fails to teach these two doors are formed on two adjacent side wall panels.

Rejection Under 35 U.S.C. 103(a)

Claim 19 was rejected under 35 U.S.C. 103(a) as being unpatentable over 720 in view of 834.

Claim 19 is a dependent claim of the patentable Claim 17. Therefore, it is believed that Claim 19 is also patentable.

Should the Examiner have any suggestions for expediting allowance of the application, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

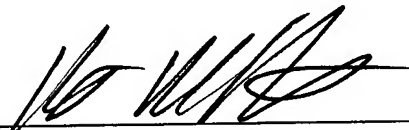
If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: August 24, 2004

Customer No.: 007663

By:



Kit M. Stetina

Registration No. 29,445

STETINA BRUNDA GARRED & BRUCKER

75 Enterprise, Suite 250

Aliso Viejo, California 92656

Telephone: (949) 855-1246

Fax: (949) 855-6371